IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. 80 of 2005

Date of Decision: 16th August, 2007

Ram Singh	Petitioner
Versus	
District Inspector cum Registration Officer and others	Respondents

Coram

The Hon'ble Mr. Justice Sanjay Karol,J.

Whether approved for reporting[1]?

For the petitioner: Mr.Karan Singh Kanwar, Advocate.

For the respondents: Mr.C.B.Singh, Dy. Advocate General, for respondents No.1 and 9.
Mr.N.K.Thakur, Advocate, for respondents No. 2 to 5.
Mr.Surinder Sharma, Advocate, for respondent No.8.

Sanjay Karol, J. (Oral)

In the present writ petition, petitioner has assailed the order dated 6.1.2005 passed by the Additional Secretary (Cooperation), Government of Himachal Pradesh.

On 4th February, 2005, following order was passed by this Court:-

> "In the interim, the operation and execution of order dated 6th January, 2005 passed by Addl. Secretary (Cooperation) to the Govt. of Himachal Pradesh, marked Annexure:P-9, shall remain stayed till further orders."

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[1] Whether the reporters of Local Papers are allowed to see the Judgment?

In terms of impugned order, the order dated 29th March, 2003 passed by District Inspector cum Registration Officer has been set aside with a direction that the election to the post of Director be held afresh by convening a meeting of all the twelve delegates, who were shown in the tentative list dated 24.3.2003.

The elections to the post of delegates/Director of District Chamba were to be held under the provisions of H.P. Cooperative Societies Act, 1968 (hereinafter referred to as the Act) and H.P. Cooperative Societies Rules, 1971. The election programme for conducting the elections to the Board of H.P. State Cooperative Bank Limited, was notified by the Director of Cooperation in terms of its orders dated 31.1.2003 and 13.3.2003 and a tentative list of selected delegates 12 in number was notified under the Act, which after considering the objections was finalized and decided on 29.3.2003 and out of 12 only three names of delegates were finalized. Pursuant to the finalization of the said list, petitioner herein was elected as Director from Chamba District on 24.3.2003.

This decision was subject matter of challenge by respondent No.2 before the Additional Registrar, Cooperative Societies, and was decided in terms of his order dated 2.9.2004. Pursuant to the orders dated 2.9.2004, respondent No.2 herein, apparently filed an appeal before the Registrar, Cooperative Societies, which was returned back vide order dated 4.11.2004. Thereafter, respondent No.2 further filed petition under Section 94 of the Act, which was decided in terms of impugned order dated 6.1.2005.

Learned counsel for the petitioner has assailed the impugned order on the ground that the petition could not have been entertained being barred by limitation. Since the provisions of the

Limitation Act does not apply to proceedings before the Additional Secretary (Cooperation), the delay, in any case, could not have been condoned.

Learned counsel for respondent No.2 has contended that keeping in view the observation of the Additional Registrar, Cooperative Societies, in his order dated 2.9.2004 and also the decision of the Registrar, Cooperative Societies, returning his appeal, he has left with no alternative but to file the petition before the Secretary (Cooperation) in accordance with the provisions of the Act.

Perusal of the impugned order would show that no reason whatsoever, have been given by the Secretary (Cooperation) to come to its conclusion for setting aside the order dated 29.3.2003 passed by the District Inspector and also giving direction that election be held afresh by convening a meeting of all the twelve delegates. In my view, the matter needs to be remanded back to the authority for consideration and decision afresh. Application for condonation of delay filed by the respondent is pending as no orders have been passed thereupon.

In this view of the matter, keeping in view the totality of circumstances, the matter is remanded back to the Secretary (Cooperation), Govt. of Himachal Pradesh, who shall decide the same by passing a speaking order after considering the respective contentions of the parties, including the maintainability of the petition as also the application for condonation of delay. Due opportunity of hearing shall be afforded to the parties. The matter be decided within 4 months from today.

For the foregoing reasons, the writ petition is allowed, impugned order dated 6.1.2005 is set aside and the matter is remanded

back to the Secretary (Cooperation), Government of H.P., for consideration afresh with the aforesaid directions.

16th August, 2007 (Sanjay Karol)
(C) Judge